THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.19833 OF 1995

DATED: 23-01-2007

Between:

A. Venkata Rao

.. Petitioner

and

The Commissioner of Endowments,
Andhra Pradesh and another.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.19833 OF 1995

ORDER:

This writ petition is filed seeking a mandamus declaring the action of the 2nd respondent in issuing proceedings dated 20-07-1995 terminating the services of the petitioner without notice, as illegal, arbitrary and violative of Articles 14, 16 and 21 of the Constitution of India.

It appears, the petitioner was appointed as a Clerk on 01-04-1991 in Sree Bhavaji Math, Singarayapalem village, Krishna District. The Clerk post is being continued for the last so many years even prior to the appointment of the petitioner. While in service, the petitioner was given periodical increments raising his pay from Rs.425/- to Rs.435/- in the pay scale of Rs.425-10-455-15-630 with D.A. at 95% and H.R.A. at 10% with effect from 01-04-1994 and probation was also declared on 20.06.1994 in the said cadre. While that being so, the impugned proceedings dated 20-07-1995 were issued by the 2nd respondent-Executive Officer of the Math, without any prior notice to the petitioner. Though the petitioner made a representation to the 2nd respondent, there was no response. The impugned order seems to have been passed at the instructions purported to have been issued by the 1st respondent. The petitioner is not aware as to what the proceedings of the 1st respondent dated 26-06-1995 contain. The service conditions of the petitioner are governed by the Rules made under Section 153 of the

Endowments Act. So far no rules or regulations are framed in this regard by the temple. Thus, the impugned order, terminating the services of the petitioner, is arbitrary, illegal and violative of Articles 14, 16 and 21 of the Constitution of India and also contrary to the principles of natural justice.

A detailed counter-affidavit has been filed by the 2nd respondent- the Executive Officer of the Math. It is stated that as per the prescribed procedure for appointment of Clerks in the institution, the Executive Officer has to call for requisition of a panel of names from the Employment Exchange concerned and appoint qualified candidates. In the instant case, the then Executive Officer has given a go-bye and appointed the petitioner who is none other than his nephew. Likewise, the then Executive Officer has also appointed his brother-in-law as Attender terminating a regular Attender on the ground of paucity of funds. He has also appointed his daughter as Clerk in one of the temples under his management without following the rules. Thus, the then Executive Officer has appointed his brother-in-law, his nephew and daughter contrary to the norms. The appointment of the petitioner was contrary to the norms prescribed by the Rules. The then Executive Officer made appointments according to his whims and fancies and granted liberally the time scale, seniority etc. without any approval from the higher authorities. Therefore, the termination of the petitioner is justified and there are no merits in the writ petition and the same is liable to be dismissed.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material available on record.

While admitting the writ petition on 04-09-1995, this Court passed an interim order directing the respondents to reinstate the petitioner after suspending the impugned proceedings. On filing a vacate petition, the said interim order was made absolute on 03-04-1996.

Now, it is about twelve years since the interim order was passed by this Court and the petitioner is continuing in service. Admittedly, no notice of any kind was issued before terminating the services of the petitioner and it is not the case of the respondents that there was no vacancy and as such the services of the petitioner were terminated. It is their case that since the very appointment of the petitioner was irregular and was done by the former Executive Officer who is no other than the uncle of the petitioner, the services of the petitioner are sought to be terminated. I am of the opinion that even if the appointment is irregular, the petitioner should have been issued with a notice and after calling for explanation etc., a final decision ought to have been taken by the respondents. In the instant case, no such attempt was made. Therefore, I am of the opinion that the impugned order is in gross violation of principles of natural justice and the same is liable to be set aside on this ground alone.

The writ petition is accordingly allowed and the impugned order is set aside. There shall be no order as to

costs.

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C.V. RAMULU, J

23rd January 2007.
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